



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,839	05/11/2001	Marcio Cravo de Almeida	12971-002001	6450

26161 7590 02/27/2006

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER

LEZAK, ARRIENNE M

ART UNIT PAPER NUMBER

2143

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/853,839	Applicant(s) CRAVO DE ALMEIDA ET AL.	
	Examiner Arrienne M. Lezak	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 19-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/05</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Examiner notes that Claims 19, 20 & 32-35 have been amended, and no claims have been cancelled or newly added since issuance of the prior Office Action. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 27 June 2005 as reiterated herein below.

Claim Rejections - 35 USC § 112

1. Claims 19, 21, 26, 28, 29, 31, 32, 34, 39, 41, 42 & 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended Claims 19 & 32-35, and as such, has overcome the rejection under 35 U.S.C. 112. Additionally, Examiner is persuaded by Applicant's arguments concerning Claims 21, 26, 28, 29, 31, 34, 39, 41, 42 & 44, and as such withdraws objection to the same under 35 U.S.C. 112.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of US Patent Pub. US 2001/0027470 A1 to Ulmer and US Patent Pub. US 2002/0173997 A1 to Menard.

4. Regarding Claims 19 & 32, Ulmer discloses a method and computer readable medium comprising:

automatically and repeatedly receiving electronic mail messages that include information related to remotely collected data indicative of a performance of a machine, the electronic mail messages complying with a standard electronic mail messaging protocol, (paragraphs #0036-0038, 0040, 0056, 0059, 0063-0073 & 0097), and

automatically analyzing the information to determine the performance of the machine, (paragraph #0036).

5. Though Ulmer clearly discloses the remote collection and analysis of data related to the performance of a machine, Ulmer does not specifically teach the collection and analysis of data by a remote computer, which data is indicative of the performance of the particular remote machine collecting the data. Menard clearly teaches a collection/analysis system, embedded upon the client, which system collects and transmits client-based data to a remotely located management server for analysis of the same, (Menard – paragraphs #0010-0017).

6. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate the collection & threshold analysis system from Menard into the remote support service system of Ulmer as a new means by which to

improve business performance and increase reliability within a geographically distributed system, (Menard – paragraph #0002-0009). Specifically, Examiner notes that both systems gather, transmit, analyze and report remote system performance information wherein various analysis techniques would have been obvious to incorporate therein or combine therewith. Therefore, Claims 19 & 32 are found to be unpatentable over the combined teachings of Ulmer and Menard.

7. Regarding Claims 20 & 33, the teachings of Ulmer and Menard are relied upon as disclosed herein. As noted above, Ulmer discloses the capture and transmission of performance information, (paragraph #0036), via email, (paragraph #0038) to the support-service provider. Ulmer does not specifically indicate the analysis component extracting the information exclusively from the electronic mail messages; however, it would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to extract information from any remote customer transmission for analysis purposes at the support-service provider's site within a system dedicated to providing remote support services wherein any information transmitted from the remote customer could obviously be relevant and necessary to proper system performance analysis. Therefore, Claims 20 & 33 are found to be unpatentable over the combined teachings of Ulmer and Menard.

8. Regarding Claims 21, 26, 28-31, 34, 39 & 41-44, the teachings of Ulmer and Menard are relied upon as disclosed herein. Ulmer further discloses a graphical display, (per pending Claims 30 & 43), (paragraph #0059) and generating a [English language] report based on the analysis, (per pending Claims 21, 26, 34 & 39),

(paragraph #0003, 0059, 0097 & 0101), wherein said report would obviously need to be in a maximally universally understood language, (i.e.: English), for comprehension by the greatest amount of individuals. Additionally, the use of language enhancements, (per pending Claims 28, 29, 41 & 42), and hyperlinks, (per pending Claims 31 & 44), in word processing and email programs is well-known in the art as an obvious means of accessing and emphasizing matter within written instruments, wherein the use of bold, italicized, colored, underlined and various font size typeface and links to other web pages/databases is not patentably distinct, (please see McGregor '360 noted herein below). Therefore, Claims 21, 26, 28-31, 34, 39 & 41-44 are found to be unpatentable over the combined teachings of Ulmer and Menard.

9. Regarding Claims 22 & 35, the teachings of Ulmer and Menard are relied upon as disclosed herein. Ulmer further discloses generating an electronic mail message that includes the report and transmitting the electronic mail message over a network, (paragraph #0038). Therefore, Claims 22 & 35 are found to be unpatentable over the combined teachings of Ulmer and Menard.

10. Regarding Claims 23-25, 27, 36-38 & 40, the teachings of Ulmer and Menard are relied upon as disclosed herein. Menard clearly teaches analysis of data based on a threshold comparison, (per pending Claims 23, 25, 36 & 38), (Menard - Abstract, paragraphs #0010-0017 & 0057-0059), and performance reports obviously inclusive of performance-based information, (i.e.: threshold/measurement value) (per pending Claims 24, 25, 27, 37, 38 & 40), (Menard – paragraphs #0013, 0037 & 0057), and wherein analyzing and selecting from the collected data obviously includes determining

the number of performance measurements that are within the range of acceptable values, (per pending Claims 25 & 38), (Menard – paragraph #0057). Therefore, Claims 23-25, 27, 36-38 & 40 are found to be unpatentable over the combined teachings of Ulmer and Menard.

Response to Arguments

11. Applicant's arguments filed 1 December 2005, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

12. Applicant's arguments regarding the newly amended claim language have been addressed herein above. Thus, as Examiner has completely addressed Applicant's amendment, and finding Applicant's arguments do not show how Applicant's amendment avoids such references or objections, Examiner hereby maintains the rejection of all claims in their entirety.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2143

14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent Pub. US 2002/0026360 A1 to McGregor.

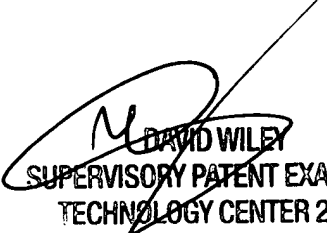
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak
Examiner
Art Unit 2143

AML


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100